IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)

Description of case

Appeal From Order No. 448 of 2006

Date of decision: 2nd August, 2006

A.F.R. (Approved for Reporting)
~~Not Approved for Reporting~~

Date 2.8.2006.

Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 448 of 2006

Uttaranchal Transport Corporation,
Through Regional Manager,
Dehradun. ……. Appellant

Versus

1. Smt. Sangat Kaur,
   W/o Sri Fakir Singh.
2. Sri Fakir Singh,
   S/o Late Sri Sardar Singh.
   Both R/o Chaniriya, P.O. Lal Dhanga,
   P.S. Shyampur, Haridwar. ……. Respondents

Mr. A.N. Sharma, Advocate for the appellant.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. A.N. Sharma, the learned counsel for the appellant is heard on admission.

2. Appellant Uttaranchal Transport Corporation has filed this appeal against the Award dated 31.05.2006 passed by Motor Accident Claims Tribunal, Dehradun in Motor Accident Claim Case No. 183 of 2005, whereby the appellant Corporation was directed to pay a sum of Rs. 2,25,000/- as compensation to the claimants with interest at the rate of 6% per annum from the date of the application.

3. Respondents / claimants Smt. Sangat Kaur and Sri Fakir Singh, the unfortunate parents of deceased Kulveer Singh, claimed compensation of Rs. 15,20,000/- for his death in the motor accident, when he was hit by the appellant's bus bearing registration No. UA-07-J-0765 on 18.06.2005 resulting in his instantaneous death on the spot, itself. The claimants pleaded that their son Kulveer Singh was aged about 29 years and used to earn Rs. 5,500/- per month as Welder.

4. The appellants Corporation and the driver of the bus contested the claim and denied their liability to pay compensation on the plea that the deceased, himself, was responsible for the accident, as he was negligent while crossing the road.

5. The Tribunal, on the evidence led by the parties, held that claimants' son Kulveer Singh died on account of the injuries sustained by him in the accident and that the accident occurred due to the rash and negligent driving of the driver of the appellant's bus.

6. As the Tribunal did not find the evidence led by the claimants about the income of the deceased reliable, his income was assessed by the Tribunal at Rs. 3,000/- per month on its own estimate. After deducting 1/3rd of the said amount as his personal expenses, the claimants' dependency was assessed at Rs. 2,000/- per month and Rs. 24,000/- per annum. By multiplying the annual dependency of Rs. 24,000/- with the multiplier of '9', the compensation was worked out to Rs. 2,16,000/-. The Tribunal awarded further sum of Rs. 9,000/- under other permissible heads and thus, a total sum of Rs. 2,25,000/- was awarded as compensation to the claimants. The Tribunal, further, directed payment of interest at the rate of 6% per annum on the amount of the compensation from the date of the application.

7. Mr. A.N. Sharma, the learned counsel for the appellant Corporation vehemently argued that the Tribunal has erred in holding that the driver of the appellant's bus was responsible for the accident; in assessing the income of the deceased at Rs. 3,000/- per month and in selecting the multiplier of '9'.

8. From the impugned Award, we gather that PW2 Sharwan Singh, eye-witness of the accident, has deposed that the driver of the bus was driving the bus rashly. The Tribunal has subjected the

evidence of PW2 Sharwan Singh to a thorough scrutiny before holding that the accident occurred due to the negligence of the driver of the appellant's bus. Mr. A.N. Sharma, the learned counsel for the appellant could not point out any infirmity or perversity in the appreciation of the evidence by the Tribunal. We, therefore, do not find any infirmity in the finding recorded by the Tribunal holding the driver of the appellant's bus responsible for the accident.

9. True, the claimants pleaded that their son Kulveer Singh used to earn Rs. 5,500/- per month, but could not lead any reliable evidence before the Tribunal in support of the above plea. The Tribunal therefore, did not accept the income of the deceased at Rs. 5,500/- per month as was pleaded by the claimants. The income of the deceased is assessed by the Tribunal at Rs. 3,000/- per month on its own estimate.

10. Mr. A.N. Sharma, the learned counsel for the appellant submitted that the Tribunal ought to have assessed the income of the deceased at Rs. 15,000/- per annum only on the basis of the notional income prescribed in the Second Schedule under Section 163-A of the Motor Vehicles act, 1988.

11. The notional income of Rs. 15,000/- per annum in the Second Schedule under Section 163-A of the Motor Vehicles Act was prescribed in the year 1994. The accident in the present case took place in 2005. If the depreciation in the purchase value of the rupee is taken into consideration, the assessment of the income of the deceased by the Tribunal at Rs. 3,000/- per month and Rs. 36,000/- per annum would be almost at par with the notional income of Rs. 15,000/- per annum prescribed in the Second Schedule in the year 1994. That apart, even an unskilled labourer, these days, can easily earn Rs. 100/- per day. We, therefore, do not find any infirmity in the finding recorded by the Tribunal assessing the income of the deceased at Rs. 3,000/- per month and Rs. 36,000/- per month.

12. The Tribunal, while assessing the dependency of the claimants on the deceased, has deducted 1/3rd of the income of the deceased as his personal expenses and the claimants' dependency has been determined at Rs. 2,000/- per month and Rs. 24,000/- per annum. The selection of multiplier of '9' by the Tribunal, considering the age of the deceased and the claimants who are parents of the deceased, cannot be said to be on the higher side so as to warrant interference.

13. Even otherwise, the compensation of Rs. 2,25,000/- to the parents for the death of their grown up unmarried son aged about 30-35 years, cannot be termed as excessive.

14. For the foregoing reasons, we do not find any scope for interference either on account of the finding of negligence; assessment of the income of the deceased; the claimants' dependency; or the multiplier selected by the Tribunal.

15. The appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

16. Consequently, CLMA No. 9716 of 2006 also stands dismissed.

(J.C.S. Rawat, J.) 02.08.2006

(Rajeev Gupta, C.J.) 02.08.2006

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